

THE CONCEPTUAL ANALYSIS OF PROFESSIONAL ETHICS

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Abstract

The professional ethics is intermediary, between the philosophy of the morality and the particular ethics of the different professional categories, being characterized through reflexivity. If the law usually intervenes after the breach has appeared, the professional ethics acts preventively, this being the main motive for being introduced. There are authors who deny the existence of a professional ethics, saying that there are only ethics applicable to different professions.

Keywords: *professional ethics, moral, ethical formalization, professional codes*

Introductory considerations

Ethics is indispensable to any profession, giving solutions where the judicial norms are not clear or do not expressly provide the moral-conflict situations of a professional in a certain domain. Thus, professional ethics is of great importance.

Moral and Ethics

The moral is an ensemble of judgments regarding the difference between right or wrong having the purpose of directing the human behavior. [1, 10]

Moral has a double meaning:

- as a universal social fact, as it is also shown by the Latin etymology (*mores* – habits); every society has a set of values and rules of conduct; [2, 4]
- As a result of the universal experience that seeks justice, the punishment of criminals and repair of damage. [1, 5]

A moral judgment consists of comparing what it is (imperfect reality) with what it should be (the idea of good). [1, 45] Therefore, moral implies denying the satisfaction of our own interests in favor of the ideal exigencies of virtue. Ethics (in Greek *ethos* – habits) is a theory of moral. If moral invokes universal truths, ethics invokes different positions to the moral choice issues. A narrow meaning of ethics would be knowing what deserves to

be desired. At large, ethics studies the general standards applicable to most people for the most part of their lives. [3, 11]

Ethics' purpose is to help people decide what is best for them, based on what criteria to choose and what is the moral reason for their actions. In other words, ethics implies the rational definition of the rules of moral evaluating collective choices, laws, institutions, professional and civic behavior (especially the behavior of government, politicians and public managers, including public clerks) as well as revealing ways for institutions and organizations to facilitate the freedom and fulfillment of people.

In the civic, professional and political life ethics interferes when conflicts of roles occur (conflict between private life and career, conflict between professional status and the wishes of the loved ones), when there are social changes (these determine the change of values and norms), in case of social pluralism (when people choose what is best for them).

Profession and professionalism

The profession is a social occupation with a permanent character of a person, exercised based on a practical and theoretical learning of a field. A profession implies knowing the theories of the field and a lengthy and thorough training. Any profession has the purpose to satisfy certain social needs.

The initiation, maintenance and promotion standards of a person within its professional competence are established by the professional corpus. The members of a professional group have collegial relations, there also being an ethical code in this regard. In the case of professional offenses, the harshed measure is withholding the right to practice (elimination from the professional group).

Professionalism brings together the common beliefs of a profession, helping increase identity and self-esteem (the profession becomes part of the personal identity and of the identity regarding the rest of the members of the professional group).

Professionalism means trusting the autonomy of professional decisions and the power of self-regulation and collegial maintenance of professional standards. An essential feature of professionalism is the fact that working for the client's benefit is a more

obligation, but an exaggerated moral implication is not necessary. Empathy is allowed but preferential treatment and arbitration are not.

Professional ethics

There are specific laws and regulations for professionals. Along with the legal norms, ethical norms are also necessary. The latter mainly regard professional authority, paternalist practices and the rights of the clients.

Professional ethics is the total of rules regarding the rights and duties of the members of a professional group, professional practices, criticising and punishing professional malpractice. [4, 32]

Professional ethics is an intermediate between the philosophy of moral and particular ethics of different categories of professions [3, 54] and is characterized by reflexivity. If the law usually acts after it has been broken, professional ethics acts preventively – this being the main reason for its introduction. There are authors who deny the existence of professional ethics, stating that there are only ethics applicable to certain professions.

There are several types of ethics:

- For difficult situations (it is not based on codes that have a strong idealist character but in negative cases: in politics on compromise and cynicism, in journalism on misinformation, in administration on corruption etc. ; the positive aspect of focusing on negative cases resides within the virtues that are offered by criticising malpractices of a field: this type of ethics is preferred by mass-media when journalists believe that everything that is not scandalous is not a piece of news).
- The standard approach (focuses on the features of professional practice analyzed by rights and duties – for example, doctors and social workers have a greater duty to help people, parliamentarians have the duty to establish cohabitation rules, governors have the duty to divide public resources – it is necessary for the strategical development of a profession.

Central concepts of professional ethics

Professional ethics uses the following concepts:

- Autonomy – the possibility of choosing our courses of action in virtue of having discernment and knowing our own interests.
- Benevolence (almost all professions require compliance not only with the duties written in the job description but also caring for the collective, protecting the name of the institution).
- paternalism (according to this concept there are vulnerable, powerless people with no means to follow their goals or people who don't have enough discernment; it refers to the recognition of professional authority)
- Rights and right action (refers to professions that include the rights of people affected by the rights of patients, clients, contributors, students or those employed within their profession – union rights). [5, 24]

Ethical formalization and professional codes

Ethical formalization is the elaboration of ethical codes for different professions. The elaboration of the ethical code is made to cover the free space between the frame-values of a society, namely professional group, and law.

An ethical code is a model of behavior, protecting the organization from opportunist and unfair behaviors. Also, an ethical code is a moral agreement between the members of an institution as well as between the members and the beneficiaries of the institution and it is regarded as a reference frame for making decisions.[4, 56]

The creation of the ethical climate is the creation of a climate where actions are perceived as being just or the correlation between contractual actions and responsibility and trust. Thus, the respect for the institution increases, as well as its reputation and the loyalty of contributors. In order to have authority, an ethical code must be tacitly or explicitly accepted by all members of the professional group. Certain professions require this agreement to be stated whenever a new person enters the field; should the person not agree, she is not accepted by the profession.

Ethics in public administration

Nowadays there is more and more talk about the public function and the public clerk – they became premises of integration into the European Union. For this purpose The National Agency of Public Clerks has been founded, professional corpus, stable and politically neutral and organ of the central public administration subordinated to the Ministry of Internal Administration who elaborated The Ethical Code of Public Clerks.

Ethics within the public administration is of great importance. To state that public administration only manages the technical issues of government or to ignore the fact that public clerks are people with their own values, with different education and that professional identity is a component of personal identity is a serious error. The preponderant role of ethics in public administration is derived from the fact that if a bureaucracy is no longer ethical, meaning that people no longer perceive it as being just, correct and equitable, then the beneficiaries lose their trust in government and the political system, Keeping the public faith is an essential condition of democracy.

Through the presence of ethics in public administration, whose general idea is what is best for the public, there must be promoted the best integrity, liberty, equality and political trust. If political people take leadership of society for a determined period, public administration undertakes the aspect of the lasting development of the society.

Ethics and law

The state of law implies the rule of law. In a democracy, the law represents the public will and the administration must ensure the legal rights and responsibilities. The public clerks are not mere executors of law, but they also take part in the process of projecting the laws, and in this stage, the public clerk does not show only what is permitted. The law regards the future and the future is uncertain, there can occur social movements for civil rights that the legislator might not have predicted. In the stage of enforcing the laws, the public clerks can be considered public manager within a bureaucracy whose activities are limited by law. [3,91] The law is the one protecting the public clerks from arbitration and the pressure of political parties.

The Ethical Code of Public Clerks

Elaborated by the National Agency of Public Clerks (NAPC), a specialized organ of the central public administration, the Ethical Code of Public Clerks regulates the general rules of moral and professional conduct of public clerks, being compulsory for people that temporarily occupy a public function. The improvement of the quality of public service, a better administration of the fulfillment of public interest, the elimination of bureaucracy and corruption are aimed.

The basic principles of the professional and moral conduct of a person that occupies a public function are:

- the supremacy of law (the public clerk must keep with the Constitution and the laws of the country);
- the priority of public interest (the public interest must be above all);
- the equality of treatment of citizens by public authorities or institutions (applying the same treatment in identical situations);
- professionalism (public clerks have the duty to fulfill the job duties responsibly, competently, efficiently, correctly and consciously);
- impartiality and independence (while exercising their function, all public clerks must be objective, neutral towards any political, economic or any other type of interest);
- integrity (according to this principle the public clerk must not ask or accept, directly or indirectly, for them or for others, any advantage or benefit in consideration of their public function or to abuse their function);
- The liberty of thought and expression (public clerks can express and state their opinion while keeping the order of law).

This code of conduct also establishes the loyalty principle of public clerks towards the law (applying the legal provisions, keeping their attributions and the rules of professional ethics) and of loyalty towards the public institutions and authorities (protecting the reputation of the public institution or authority where the public clerk practices and refraining from any act that may prejudice the image or legal interests of that public institution or authority).

Public clerks have the duty to have a respectful, good-faith, correct and kind behavior both in relations with the staff within that public authority or institution and with judicial persons or individuals.

N.A.P.C. controls and coordinates the application of norms provided by this code of conduct, Other attributions of the agency refer to receiving petitions and complaints regarding the violation of the provisions of the code (while respecting the confidentiality regarding the identity of the person who filed the complaint), recommending solutions for the causes for which it has received the complaint, collaboration with the nongovernmental associations which promote and protect the legitimate interests of the people in relationship with public clerks, elaborating studies and research regarding the keeping of the norms of the code.

The importance of ethics in public administration

Within the ethics of the public life, trust is the main concept. The administrative decisions that need to be fulfilled by public clerks are taken by people invested with the public trust. Public institutions perform their activity in a political environment where values and purposes are at conflict and ethics becomes a guide of values for overcoming those conflicts. Tese is founded on values such as authority, rationality, efficiency, and the public clerks must practice and maintain values such as individual liberty, equality, justice and respect for personal dignity. [4, 54]

Public clerks are searching for strategies and ways of practicing public politics. They can find themselves in dramatic situations (where resources are poor and choosing a strategy can lead to the dissolution of another) or in tragical situations (when the distribution of provisions is an issue of life or death). Critical situations can also occur when more groups of interest are involved, each with their different request. In these situations, ethics is the only way to solving the dilemmas.

Summarizing, professional ethics is the practice of a profession analyzed under a moral aspect, having the main purpose to overcome dilemmas and making the perform activity more efficient. The official recognition of a professional ethics, namely the

elaboration and enforcement of a code of moral and professional conduct requires the keeping of ethical rules, sanctions being provided for their violation.

Founding the National Agency of Public Clerks, as well as the elaboration and enforcement of the Ethical Code of Public Clerks, are the first steps for the improvement of the quality of the Romanian administrative system, for improving the relations between administration and civil society, for implementing the community acquis and for the integration in the European Union.

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